

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION**

UNITED STATES OF AMERICA,  
*Plaintiff,*

V.

37.158 ACRES OF LAND, MORE OR LESS,  
SITUATE IN HIDALGO COUNTY, STATE  
OF TEXAS; AND HIDALGO AND  
CAMERON COUNTIES WATER CONTROL  
AND IMPROVEMENT DISTRICT NO. 9,  
*Defendants.*

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CIVIL ACTION NO. 7:20-cv-00025  
(LEAD CASE)

TRACTS RGV-WSL-8000  
 RGV-WSL-8000-2,  
 RGV-WSL-8006  
 RGV-WSL-8007

UNITED STATES OF AMERICA,  
*Plaintiff,*

V.

24.263 ACRES OF LAND, MORE OR  
LESS, SITUATE IN HIDALGO COUNTY,  
STATE OF TEXAS, HIDALGO AND  
CAMERON COUNTIES WATER  
CONTROL AND IMPROVEMENT  
DISTRICT NO. 9,  
*Defendants.*

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CIVIL ACTION NO. 7:21-cv-00007  
(MEMBER CASE)

TRACT RGV-WSL-9002-1

## JOINT MOTION TO EXTEND SCHEDULING ORDER DEADLINES

United States of America (“Plaintiff”) and Hidalgo and Cameron Counties Water Control and Improvement District No. 9 (“Defendant”) hereby file their fourth Joint Motion to Extend Scheduling Order Deadlines and in support hereof state the following:

1. On January 27, 2020, the United States commenced Civil Action No. 7:20-cv-00025 against Defendant HCCID9 to acquire a fee interest in 37.158 acres of land, more or less, situate in Hidalgo County, identified as Tracts RGV-WSL-8000, RGV-WSL-8000-2, RGV-WSL-

8006, and RGV-WSL-8007 for purposes of the border infrastructure project.<sup>1</sup>

2. Defendant filed its Notice of Appearance and Demand for Jury Trial<sup>2</sup> March 13, 2020. Plaintiff filed its First Amended Complaint in Condemnation<sup>3</sup> and First Amendment to Declaration of Taking<sup>4</sup> April 13, 2020.

3. On January 6, 2021, Plaintiff commenced Civil Action No. 7:21-cv-00007 against Defendant HCCID9 to acquire a fee estate in a 24.263 acre tract of land, identified as tract RGV-WSL-9002-1.<sup>5</sup>

4. On July 23, 2021, Plaintiff and Defendant HCCID9 filed a Joint Motion to Consolidate Civil Action Nos. 7:20-cv-00025 and 7:21-cv-00007.<sup>6</sup> Both civil actions involve the taking of land that is contiguous and utilized by HCCID9 in connection with operating an 800-acre water reservoir.<sup>7</sup> The Parties requested that the Court allow the Parties to resolve the issue of just compensation in one case to reduce the expenses and attorney's fees to be incurred by HCCID9, as well as to conveniently allow the Court and Parties to address the issue of just compensation in one consolidated action.<sup>8</sup> On July 26, 2021, the Court granted consolidation of cases under Civil Action No. 7:20-cv-00025 (Lead Case).<sup>9</sup>

5. As a result of this consolidated action, Plaintiff has taken 37.157 acres of land, more or less in Lead Case, and 24.263 acres of land, more or less in Member Case (the "Subject Property") from Defendant for purposes of constructing border infrastructure to secure the United States and Mexico border. On January 28, 2020 and January 13, 2021—the respective dates of

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<sup>1</sup> Dkt. Nos. 1 & 2 in Lead Case 7:20-cv-00025.

<sup>2</sup> Dkt. No. 15.

<sup>3</sup> Dkt. No. 16.

<sup>4</sup> Dkt. No. 17.

<sup>5</sup> Dkt. Nos. 1 & 2 in Member Case 7:21-cv-00007.

<sup>6</sup> Dkt. No. 35 in Lead Case 7:20-cv-00025.

<sup>7</sup> *Id.* at 2, ¶ 3.

<sup>8</sup> *Id.*

<sup>9</sup> Dkt. No. 36 at 1.

taking—Defendant owned levees and other infrastructure within the Subject Property, which Defendant utilized in connection with operating an 800-acre water reservoir. Thus, Defendant has the burden of proof to determine the Subject Property’s fair market value of the Subject Property on the dates of taking.

6. Prior to consolidation, on January 20, 2021, President Joseph R. Biden executed Presidential Proclamation No. 10142, halting border construction operations, terminating the national emergency at the Southern Border Wall and directing “a careful review of all resources appropriated or redirected to construct a southern border wall” through the development of “a plan for the redirection of funds concerning the southern border wall.”<sup>10</sup> As such, the Parties sought to extend existing deadlines in each respective case with the understanding that if permitted to do so under the expected plan for redirection of funds, Plaintiff and Defendant HCCID9 agreed to move forward with revestment of the Subject Property as no border wall construction, or clearing operations, has taken place on the Subject Property to date.<sup>11</sup>

7. On July 21, 2021, the Parties agreed to consolidate both actions after Plaintiff informed Defendant that it does not appear that revestment may be permitted as to the Subject Property and Plaintiff will be moving forward with the taking of the fee estate in the Subject Property at issue. Plaintiff, however, has not received guidance on whether construction of border infrastructure within the Subject Property will be permitted moving forward, nor guidance on whether construction plans for the proposed bridge crossing over Defendant’s inlet channel will be finalized during the pendency of this case.

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<sup>10</sup> Pres. Proc. No. 10142, 86 Fed. Reg. 7225 (Jan. 20, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/proclamation-termination-of-emergency-with-respect-to-southern-border-of-united-states-and-redirection-of-funds-diverted-to-border-wall-construction/>.

<sup>11</sup> See Dkt. No. 33 at 4, ¶ 16 in Lead Case; Dkt. No. 14 at 3, ¶¶ c-d in Member Case.

8. Defendant has the burden of proof regarding the issue of just compensation in this consolidated action, and its deadline to designate experts and submit expert reports is set for July 30, 2021; Plaintiff's deadline is set for, August 13, 2021.<sup>12</sup> Due to the complex nature of the property involved, the recent consolidation of the new case for which no discovery has yet been conducted, and the discovery remaining to be completed, the Parties request that the Court extend the following deadlines one hundred twenty (120) days to the dates indicated:

EXPERTS:	from 07/30/2021 to 11/29/2021
DEFENSIVE EXPERTS:	from 08/13/2021 to 12/13/2021
DISCOVERY:	from 09/03/2021 to 01/03/2022
PRETRIAL MOTIONS DEADLINE:	from 09/17/2021 to 01/17/2022
MOTIONS HEARING:	from 10/15/2021 to 02/11/2022
JOINT PRETRIAL ORDER:	from 10/25/2021 to 02/22/2022

9. This joint request by the Parties is made in good faith and not for the purpose of delay.

#### **CERTIFICATE OF CONFERENCE**

Undersigned counsel for Plaintiff has conferred with undersigned counsel for Defendant and both Defendant and Plaintiff agree to the dates requested in this motion and believe that the extension is in the best interest of Plaintiff and Defendant.

Accordingly, the parties respectfully request the Court to extend the dates in the Court's Rule 16 Scheduling Order as requested in this joint motion.

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<sup>12</sup> Dkt. No. 34 at 1, ¶¶ 3(a), (b).

**FOR DEFENDANT:**

Respectfully submitted,

**FOR PLAINTIFF:**

**JENNIFER B. LOWERY**

United States Attorney  
Southern District of Texas

Lance A. Kirby, signed with permission

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By: *s/ Baltazar Salazar*

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**CERTIFICATE OF SERVICE**

I certify that on July 30, 2021, a copy of the foregoing document was served on counsel for Defendant via CM/ECF notice of electronic filing.

*s/ Baltazar Salazar*

**Baltazar Salazar**

Assistant United States Attorney